

# Collaborating for Prosperity: Working with For-Profits to Increase Revenue

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# What are we talking about today?

- Cause marketing
- Professional fundraisers as an outsource for events
- Online platforms and peer-to-peer fundraising
- Impact deal with fundraising
- Fee for service fundraising

# Cause Marketing

# State Regulation of Charitable Organizations

- Of the 38 states, including DC, requiring registration to solicit
  - 25 states have the ability to file online
  - 17 states currently require registration to be done online
  - 8 strongly encourage it
- What does online filing mean; ease of regulation – data is readily available
- National Association of Attorneys General
  - Annual conference
  - National coordination and sharing of ideas
  - <https://www.nasconet.org/>
- Annual report: <https://www.nasconet.org/wp-content/uploads/2023/10/NASCO-Annual-report-22-23.pdf>

# Commercial Co-Ventures/Cause Related Marketing

**Business agrees to pay an amount to a charity in connection with the sale of goods or services (also “charitable sales promotion”)**

- At least 22 states require special registrations
- States vary in how broad they define a CCV

- Example: Massachusetts (broad):

- “any person who promotes the sale of any good or services which is advertised in conjunction with the name of any charity”

- Ongoing vs. one-time?

- Requirements may include:

- Filing a copy of the CCV contract with the State AG
  - Some states require posting a bond (e.g., AL, MA)
  - Certain disclosure statements
  - Recordkeeping parameters



# Can you spot a CCV?



## New California Fundraising Law

- On October 7, 2021, California Governor Gavin Newsom signed into law [Assembly Bill 488](#), establishing a new statutory framework to regulate online charitable fundraising platforms
- The new law defines a “charitable fundraising platform” as:
  - “any person, corporation, unincorporated association or other legal entity that uses the internet to provide an internet website, service, or other platform to persons in this state, and performs, permits, or otherwise enables acts of solicitation to occur.”
  - The broad definition of charitable fundraising platform applies to most consumer-facing websites that facilitate the receipt of online donations or that allow a portion of the purchase price from the sale of goods or services to be donated to specified charities
  - Examples of organizations that could be included in the definition of charitable fundraising platform include Amazon, eBay, Facebook, GoFundMe, Google, and PayPal

# New California Fundraising Law

- The bill also regulates platform charities, which are charitable organizations that facilitate acts of solicitation on a charitable fundraising platform
- Requirements for charitable fundraising platforms and charities
  - Registration and reporting
  - Disclosures
  - Written consent of charity beneficiaries
  - Soliciting or receiving funds only for charities in good standing
  - Segregation of funds and accounting of fees
  - Prompt distribution of donations
- Proposed Regulations (third version) issued November 17, 2023
- Regulations introduce definitions of charitable fundraising platform types



## Better Business Bureau - Standard 19

- BBB Wise Giving Alliance - 20 Standards for charity accreditation
- At the point of solicitation, disclose:
  - \$ or % of purchase price to charity for each product sold, actual or anticipated
  - “profits” or “net proceeds” is insufficient
  - Duration of campaign (e.g., month of October)
  - Any maximum or minimum contribution
- Best practice, but only “enforced” against charities, not co-venturer

## Trends

- AmazonSmile ended
- House-branded charity versus direct relationships with charities
- Lower or no guaranteed amounts
- Higher requests for social media interaction (raising UBI concerns)
- Preference for no cost options, like donations at register
- Broad statutory definitions create gray areas of CCV compliance
- Effects of California regulations on CCV campaigns



# Professional fundraisers, online platforms and peer-to-peer fundraising

# State Regulation of Professionals

Often referred to as Professional Fundraisers, Fundraising Counsel and Fundraising Solicitors

## Outside consultants providing assistance with fundraising

- Generally NOT: employees, volunteers, Board members, organization attorneys and accountants
- Gala/sporting event companies, capital campaign organizers, grant writers, “telefundlers”, people on street with clipboard...

## State laws vary significantly

- Definitions and requirements often focus on:
  - Access to funds (e.g., will professional have physical access to a donation - check)
  - Who is making the “ask” (will the professional ask for the donation directly)

## State Regulation of Professionals - *continued*

Most states require charities to provide detailed information about the relationship including:

- Copies of contracts, including the fee arrangement
- Accounting of the fundraiser's performance

Most states require professionals (of all levels) to be licensed, pay fees and, in many cases, be bonded

Many states make it illegal for a charity to hire a professional fundraiser that is not registered

# Peer to Peer & Crowdfunding?

- Raise funds for a a particular campaign/project lead by an individual or a company
- Leverage donor contacts (friends, family, work colleagues, etc.)
- Examples:
  - Support me in my efforts to run to NYC marathon to support CHARITY
  - Support me in my efforts to climb Mount Everest
- Turns fundraising on its head by relying on donors to fundraise on behalf of the organization
- Leverage the use of technology platforms
- LAW: If done correctly, **MAY** limit some of the state solicitation registration and professional fundraising compliance, **BUT** California

# Trends

- Effects of California on online and social media presence
- Costs continue to increase
- Outsourcing may limit downside risk
- Fundraiser hesitancy and lack of knowledge regarding compliance with state laws
- Peer-to-peer fundraising is down (feels like the ubiquitous ask for tips)
- Platforms and donor choice
- Facebook fundraising declining (end of no fee policy)
- Donor-advised funds as alternatives
- Intersection of CCVs, professional fundraisers and influencers

# Sample Campaigns



## St. Jude Virtual Events

### TAKE 5 FOR ST. JUDE

- #GivingTuesdayNow held in May 2020.
- Integrated approach with a 3.5-hour family-friendly livestream with a TikTok dance challenge, music performances, patient conversations with Drew Barrymore, Michael Strahan, Nick and Joanna Swisher, and Ashley Tisdale.



# Take 5 for St. Jude – Issues for Consideration


- Finding a vendor to assist with multichannel/multiplatform live streaming
- Sponsorships vs. CCVs
- Projecting audience attendance/participation to obtain sponsors
- How to thank sponsors. Ideas considered include:
  - On screen overlay
  - Stream announcements
  - Sponsor Coupons
  - Spots for sponsor messaging
- Live event with wide visibility; mixing look-live content with true-live content
- Music Licensing – In house vs 3<sup>rd</sup> Party
- Spammers, fake websites charging admission for our free event
- Donation processing and acknowledgements
- Trademark clearances for event name and hashtags

# Traditional Acknowledgments for CCVs

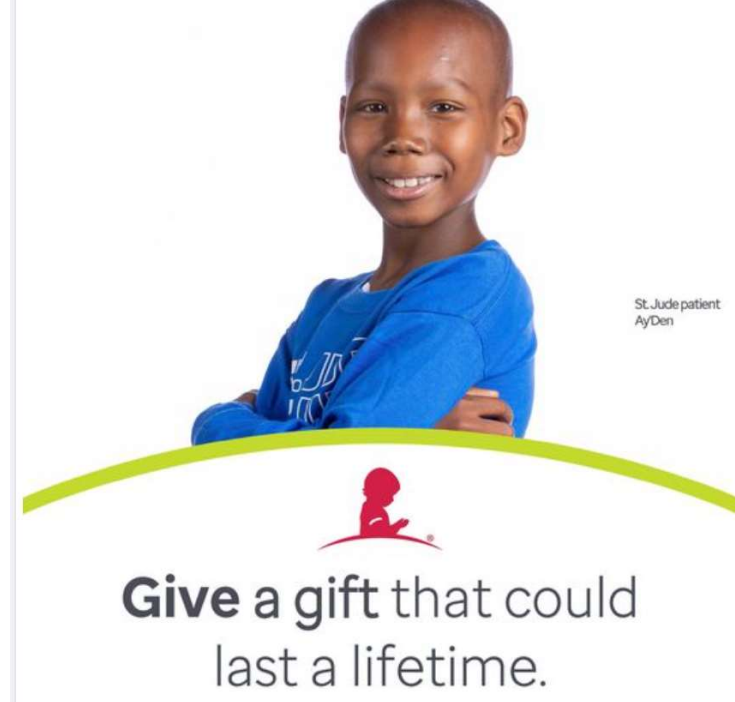
 **St. Jude Children's Research Hospital** ✓  
March 7, 2019 · 🌐

Best Buy celebrated raising a record \$20.8 million during St. Jude Thanks and Giving with a day of tech fun and (video) games! Members of the Geek Squad hit the dance floor with the kids for a silent disco, guided patients and siblings through virtual reality adventures, and lead light up experiments.




 **Best Buy** ✓  
November 29, 2022 · 🌐

Every child deserves a chance to live their best life and celebrate every moment. Please join us in donating to [St. Jude Children's Research Hospital](#) on this [#GivingTuesday](#). We've been a proud partner of St. Jude since 2013, thanks to your generosity. Learn more and donate today. <https://bby.me/eef15z>



St. Jude patient  
AyDen

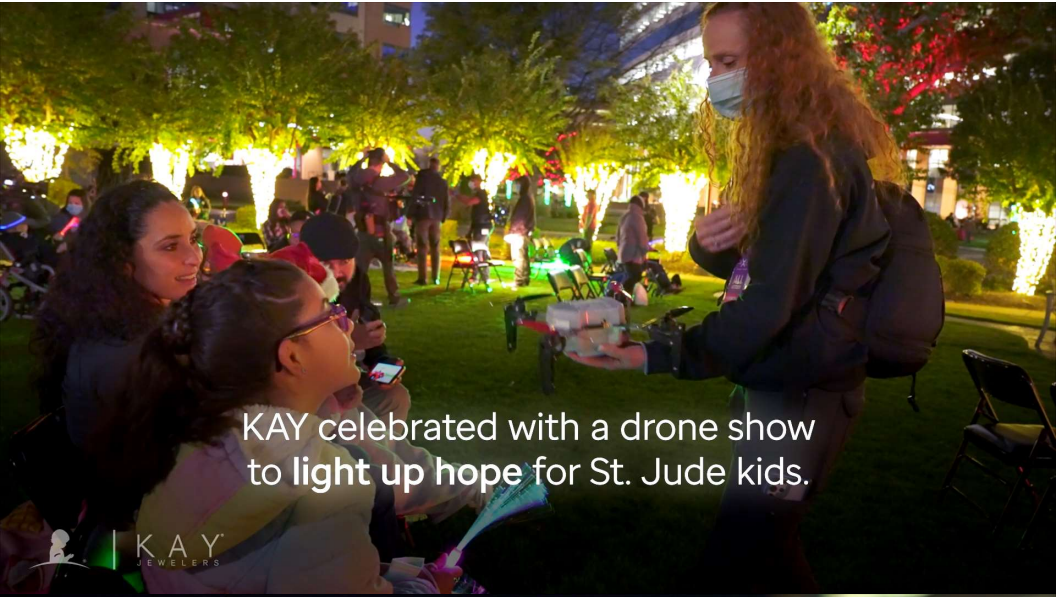
  
**Give a gift that could last a lifetime.**

## Traditional CCV, with nontraditional partner engagement

Kay Teddy Bear Jewelry Collection Honoring St. Jude

Through February 1, 2025, KAY® Jewelers will donate 25% of the purchase price from all sales of its Teddy Bear Jewelry Collection honoring St. Jude to St. Jude Children's Research Hospital®. Purchase price does not include applicable taxes or any shipping fees.

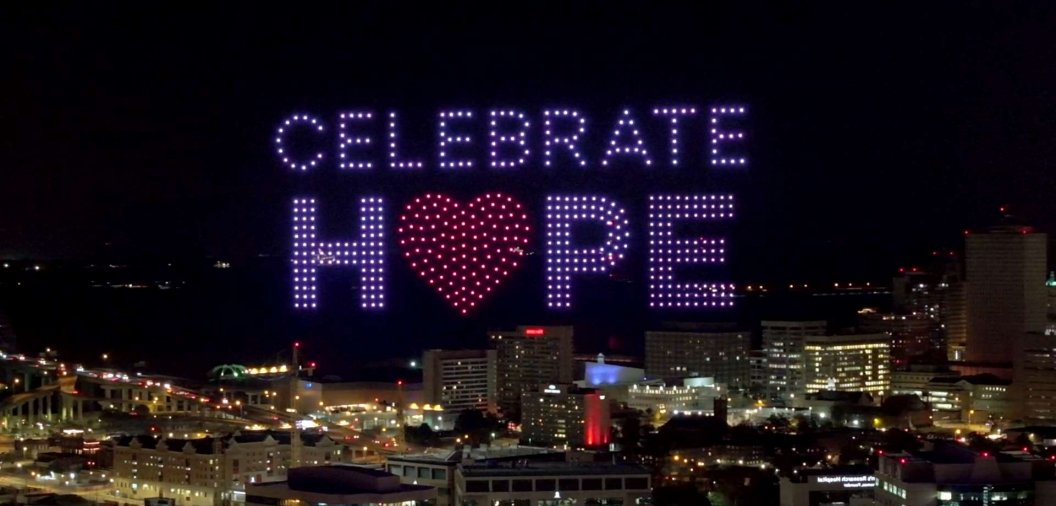




KAY celebrated with a drone show to light up hope for St. Jude kids.



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## Kia and St. Jude

- *\*Kia will donate \$14.00 for every new Kia vehicle that is purchased or leased at authorized Kia dealerships, and delivered to retail customers, between 11/16/2023 – 1/2/2024 with a guaranteed minimum donation of \$1,500,000 to St. Jude Children's Research Hospital.  
See [kia.com/seasonofgivingback](https://kia.com/seasonofgivingback) for more details.*



# Kia Commercial

- Kia takes St. Jude patients on a trip to the North Pole in a car — without ever leaving the hospital.



# ALSAC Digital Engagement

## Influencers

- Disclosure card is included in all product distributions to influencers. We also have a PDF version that can be digitally sent to influencers when we are not sending product.
  - We direct use of #StJudeAmbassador for all influencers
  - We provide Guidelines based on FTC Guidelines that instruct users how to use the disclosure to ensure it is clear and conspicuous





# Hybrid Projects; Attracting Impact Investment

# Increasing capital for projects by combining philanthropy with debt and equity investment

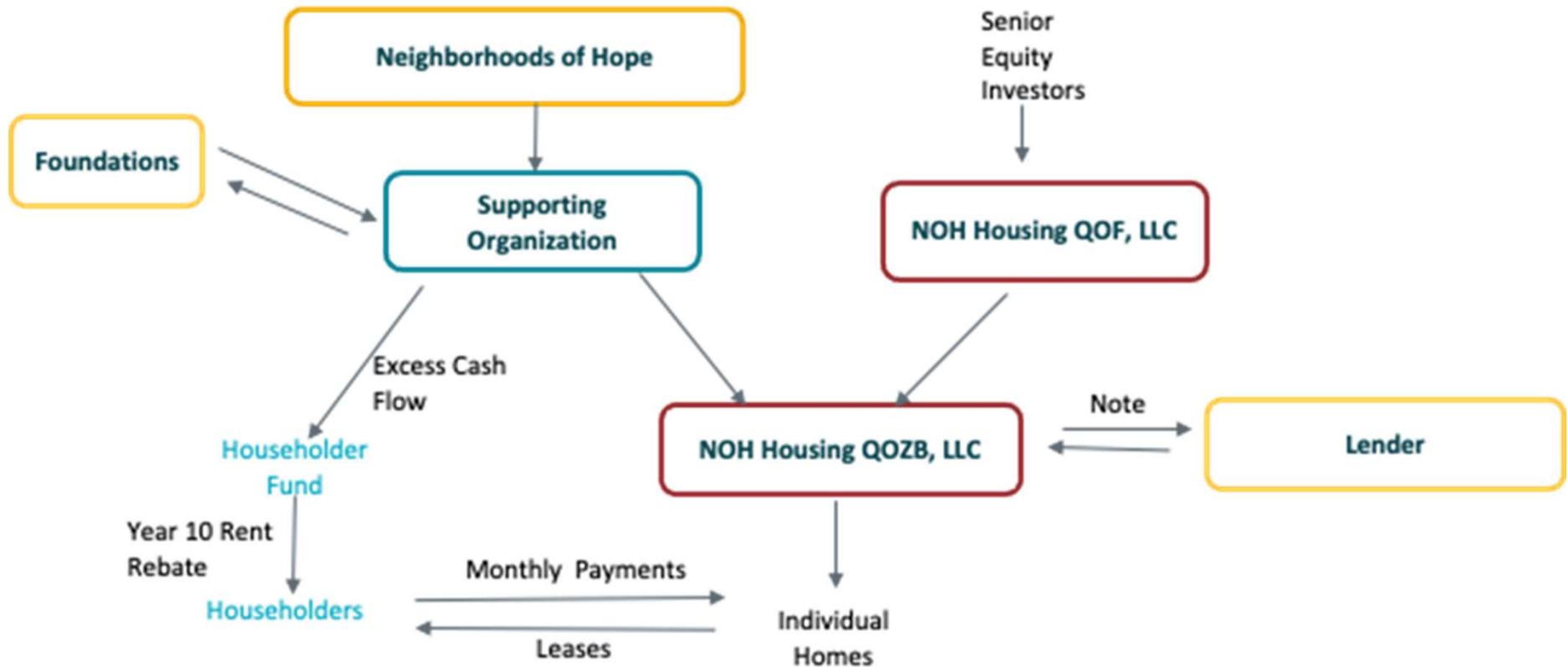
## Project goals:

- **Combat Community Deterioration:** Increasing the supply of affordable housing and attracting an economically diverse mix of residents to at-risk communities have demonstrated impacts on the stabilization and strengthening of neighborhoods.
- **Lessen Government Burdens:** State determined at both a state and local level that the outside assistance is needed to eliminate blight, enhance the tax base, attract jobs and businesses, encourage economic stability and growth, and affordably house residents. Additionally, both urban blight and housing instability are costly for communities.
- **Encourage Wealth Accumulation:** Stable housing and home ownership provide for wealth creation that can benefit multiple generations, and NHCH aims to make homeownership affordable for participants in the pilot program.

# The HouseVesting Program: How it Works

- Through a new tax-exempt supporting organization and a Qualified Opportunity Zone Business, NHCH will build 40 new 2,000 square foot homes on infill property in the EPIZ as part of a 10-year pilot program.
- A mix of low-, moderate- and average-income renters (known as “*householders*”) will make monthly rent payments and earn equity rights (“points”) in the homes for each month they participate in the 10-year pilot program.
- Upon completion of the pilot, householders can either:
  - Purchase the home they occupy at a pre-established price, with the ability to use their accumulated points towards the purchase price; or
  - If the current householder declines to purchase and the home is sold on the open market, both current and former householders’ accrued points will be redeemed after the sale.

# The HouseVesting Program



# Issues of to think about

- Inurement
  - when any inurement occurs, the organization will not qualify (or will cease to qualify) as an organization described in Section 501(c)(3)
  - as any person or entity that has a personal and private interest in the activities of the organization; “insiders” to the organization
  - Test is qualitative
- Private Benefit
  - organized and operated exclusively for an exempt purpose if it serves a public rather than a private interest
  - Test is quantitative

## Issues of to think about, *continued*

- Excess Benefit Transactions
  - Avoids draconian results for violation of inurement or private benefit
  - Seeks to tax benefits to are outsized
  - Remember automatic provisions for Supporting Organizations and DAFs
- Self-dealing (if a private foundation)
  - IRC Section 4941
  - It is self-dealing unless there is an exception
- State Conflict of Interest Law
  - Fair and reasonable standard
  - Who has the burden of proof
  - Disclosures
  - Consideration of alternatives

# Fee for Service instead of Grants

# Fee for Service

- **Examples**
  - Hygiene training for communities
  - Prescribed burns
  - Extraction of invasive species
  - Community projects like wells
  - Carbon offsets
- **Different budget for funders** – using ESG, climate offsets and CSR funds, not “charitable” or foundation dollars
- **Issues to consider**
  - Charitable purpose
  - Private benefit
  - Unrelated business income
- **Contract** is similar to a grant agreement, but different. Treated more like a typical vendor than a grantee.



## Presenter Contact Details



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